

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CRIMINAL NO. 05-30115-WDS</b>
	)	
<b>TAVON UPTON,</b>	)	
	)	
<b>Defendant.</b>	)	

**MEMORANDUM & ORDER**

**STIEHL, District Judge:**

This matter is before the Court on defendant's motion to redact the indictment (Doc. 21) and defendant's 404(b) request (Doc. 22). The government has not filed responses to these motions.

In the first motion, the defendant seeks to have redacted from the indictment the language regarding his prior felony conviction. The defendant has indicated that he does not intend to testify in this case and will stipulate to his prior felony conviction. In light of this representation, the Court **GRANTS** defendant's motion to redact. If the defendant does not testify and enters into the proposed stipulation, the Court will send a redacted indictment to the jury.

Also before the Court is defendant's request for notice of any 404(b) evidence which the government intends to introduce at trial against the defendant. Under Fed. R. Evid. 404(b), admission of evidence of other wrongs is permitted if it (1) is offered to establish a matter in issue other than the defendant's propensity to commit the crime charged, (2) shows that the other act is similar enough and close enough in time to be relevant to the matter in issue, (3) is sufficient to support a jury finding that the defendant committed the similar act, and (4) has probative value not substantially outweighed by the danger of unfair prejudice. *United States v.*

*Anifowoshe* , 307 F.3d 643, 646 (7<sup>th</sup> Cir.2002). “Rule 404(b) provides that evidence of other crimes or acts is not admissible to prove the character of the person in order to demonstrate action in conformity therewith, but it may be admissible for other purposes including, inter alia, proof of motive, opportunity, or intent.” *United States v. Pittman*, 388 F.3d 1104, 1106 (7<sup>th</sup> Cir. 2004).

Upon review of the record, the Court **DIRECTS** the government to provide to the defendant, within seven (7) days of trial, notice of any 404(b) evidence which it intends to introduce at trial against the defendant.

**IT IS SO ORDERED.**

**DATED: April 6, 2006.**

**s/ WILLIAM D. STIEHL**  
**DISTRICT JUDGE**